

INTERGOVERNMENTAL RELATIONS — H.J.R. 86, H.B. 696, H.B. 2799, H.B. 1920 (Amended), H.B. 1211 (Amended), H.B. 2671, H.B. 824, H.B. 823, H.B. 811 (Amended), H.B. 1232, C.S.H.B. 2282, S.J.R. 18, S.B. 1374, S.B. 1380, C.S.S.B. 443, C.S.S.B. 783, C.S.S.B. 817, C.S.S.B. 991, C.S.S.B. 720

HEALTH AND HUMAN SERVICES — C.S.S.B. 86, C.S.H.B. 781

NATURAL RESOURCES — C.S.S.B. 1205

HEALTH AND HUMAN SERVICES — C.S.S.B. 690

INTERGOVERNMENTAL RELATIONS — C.S.S.B. 339

April 30, 1993

INTERGOVERNMENTAL RELATIONS — S.B. 1445

FIFTY-SEVENTH DAY

(Friday, April 30, 1993)

The Senate met at 9:50 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

Absent-excused: Luna, Parker, Shelley.

A quorum was announced present.

Senate Doorkeeper James Morris offered the invocation as follows:

Our Father, for this season of new life and fresh growth we thank You. This morning we offer our thanks for every individual gift and the opportunity of service and the dedication of the individual Members. Now, Thou who hast given so much to each of us, give one more thing—a grateful heart. In praise we pray. Amen.

On motion of Senator Harris of Dallas and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

On motion of Senator Harris of Dallas, Senator Luna was granted leave of absence for today on account of important business.

On motion of Senator Harris of Dallas, Senator Parker was granted leave of absence for today on account of important business.

On motion of Senator Brown, Senator Shelley was granted leave of absence for today on account of important business.

CO-AUTHOR OF SENATE BILL 229

On motion of Senator Rosson and by unanimous consent, Senator West will be shown as Co-author of S.B. 229.

CO-AUTHOR OF SENATE BILL 1116

On motion of Senator Zaffirini and by unanimous consent, Senator Lucio will be shown as Co-author of S.B. 1116.

PERMISSION TO INTRODUCE BILLS

On motion of Senator Harris of Dallas and by unanimous consent, Article III, Section 5 of the Texas Constitution and Senate Rule 7.07(b) were suspended to permit the introduction of the following bills:

S.B. 1450	S.B. 1454
S.B. 1451	S.B. 1455
S.B. 1452	S.B. 1456
S.B. 1453	S.B. 1457

SENATE BILLS AND RESOLUTION ON FIRST READING

The following bills and resolution were introduced, read first time, and referred to the committees indicated:

S.C.R. 80 by Madla Health and Human Services
Directing all state agencies that are involved in the provision of health and human services to people with disabilities to develop and implement policies to improve access to state services by persons with disabilities.

S.B. 1450 by Haley Finance
Relating to construction and maintenance of farm-to-market and ranch-to-market roads.

S.B. 1451 by Haley Jurisprudence
Relating to the creation of a judicial district composed of Henderson County.

S.B. 1452 by Haley Finance
Relating to ad valorem taxation of agricultural land.

S.B. 1453 by Sims Natural Resources
Relating to certain technical corrections and other clarifications and to Subchapter B, Chapter 54, Title 4, of the Water Code.

S.B. 1454 by Sims Economic Development
Relating to reimbursement from the waste tire recycling fund for certain waste tire recyclers.

S.B. 1455 by Luna Jurisprudence
Relating to the creation of a judicial district composed of Bexar County.

S.B. 1456 by Luna Jurisprudence
Relating to the creation of a judicial district composed of Bexar County.

S.B. 1457 by Henderson Jurisprudence
Relating to the creation of the County Criminal Court at Law No. 15 of
Harris County, Texas.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read first time and referred to the committees indicated:

H.B. 253 to Committee on Jurisprudence.
H.B. 1305 to Committee on Intergovernmental Relations.
H.B. 2055 to Committee on Economic Development.
H.B. 2305 to Committee on Criminal Justice.
H.B. 2680 to Committee on International Relations, Trade, and
Technology.
H.B. 2626 to Committee on State Affairs.

(Senator Brown in Chair)

SENATE RESOLUTION 745

Senator Haley offered the following resolution:

S.R. 745, Commending the students of Newton High School for joining
Drug Free Youth in Texas and extending to them a warm welcome to the
capital city.

The resolution was previously read and adopted Tuesday, April 27,
1993.

SENATE BILL 1362 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular
order of business was suspended to take up for consideration at this time
on its second reading and passage to engrossment:

S.B. 1362, Relating to the designation of Enrolled Agents.

The bill was read second time.

Senator Montford offered the following committee amendment to the
bill:

Amend **S.B. 1362** on page 1, line 21, by deleting all language on that
line and replacing it with the following:

(c) Nothing contained in this Act shall prohibit any person

The committee amendment was read and was adopted by a viva voce
vote.

On motion of Senator Montford and by unanimous consent, the caption
was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1362 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional
Rule requiring bills to be read on three several days be suspended and that
S.B. 1362 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1139 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1139, Relating to eligibility of certain professional athletes for workers' compensation benefits.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1139 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1139** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

HOUSE JOINT RESOLUTION 86 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.J.R. 86, Proposing a constitutional amendment relating to the exemption from ad valorem taxation of real and personal property used for the control of air, water, or land pollution.

The resolution was read second time and was passed to third reading by a viva voce vote.

HOUSE JOINT RESOLUTION 86 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.J.R. 86** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The resolution was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

HOUSE BILL 1920 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 1920, Relating to an exemption of certain pollution control property from property taxation and adjustment of the property tax rollback rate.

The bill was read second time.

Senator Armbrister offered the following committee amendment to the bill:

Committee Amendment

Amend **H.B. 1920** as follows:

1) In SECTION 1, on page 1, lines 11-13, delete the sentence "The exemption shall be proportionate to the percentage of property determined to be pollution control property under Subsections (c) and (d)."

2) In SECTION 1, on page 2, line 19, insert after the period an additional sentence to read:

"If the installation includes property that is not used wholly for the control of air, water, or land pollution, the person seeking the exemption shall also present such financial or other data as the executive director requires by rule for the determination of the proportion of the installation that is pollution control property."

The committee amendment was read and was adopted by a viva voce vote.

Senator Armbrister offered the following amendment to the bill:

Floor Amendment

Amend **H.B. 1920** in SECTION 1, on page 1, line 49, insert the following between "product" and "that":
"or provides a service"

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to third reading by a viva voce vote.

HOUSE BILL 1920 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 1920** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1077 ON SECOND READING**

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1077, Relating to the regulation of speech-language pathologists and audiologists and the continuation of the State Committee of Examiners for Speech Pathology and Audiology.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Amend **C.S.S.B. 1077** as follows:

Add under Section 13. Licensing under Special Conditions.

(f) The Board may establish rules to address the issuance of a license to individuals who held a baccalaureate or graduate degree and a valid Central Education Agency Certificate in Speech and Hearing Therapy, and were not working due to documented medical reasons, including pregnancy, during the previous "grandfather" period, September 1, 1984 through August 1, 1986. Application for licensure under this special condition must be presented to the Board in the manner prescribed by the Board's rules, by August 31, 1994.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris of Dallas and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1077 ON THIRD READING**

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1077** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 953 ON SECOND READING**

On motion of Senator Wentworth and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 953, Relating to the licensing of persons who fit and dispense hearing instruments; providing administrative penalties.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 953 ON THIRD READING**

Senator Wentworth moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 953 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

(Senator Truan in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 1094 ON SECOND READING**

Senator Madla asked unanimous consent to suspend the regular order of business to take up for consideration at this time:

C.S.S.B. 1094, Relating to the regulation of professional manicuring and facial specialty schools and the imposition of fees by the Texas Cosmetology Commission.

There was objection.

Senator Madla then moved to suspend the regular order of business and take up **C.S.S.B. 1094** for consideration at this time.

The motion prevailed by the following vote: Yeas 22, Nays 3.

Yeas: Armbrister, Barrientos, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Leedom, Madla, Moncrief, Montford, Nelson, Patterson, Ratliff, Rosson, Sibley, Sims, Truan, Turner, Wentworth, West, Zaffirini.

Nays: Bivins, Shapiro, Whitmire.

Absent: Harris of Dallas, Henderson, Lucio.

Absent-excused: Luna, Parker, Shelley.

The bill was read second time and was passed to engrossment by a viva voce vote.

RECORD OF VOTE

Senator Bivins asked to be recorded as voting "Nay" on the passage of the bill to engrossment.

**COMMITTEE SUBSTITUTE
SENATE BILL 1094 ON THIRD READING**

Senator Madla moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1094** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 21, Nays 2.

Yeas: Armbrister, Brown, Carriker, Ellis, Haley, Leedom, Lucio, Madla, Moncrief, Montford, Nelson, Patterson, Ratliff, Rosson, Sibley, Sims, Truan, Turner, Wentworth, West, Zaffirini.

Nays: Bivins, Shapiro.

Absent: Barrientos, Harris of Tarrant, Harris of Dallas, Henderson, Whitmire.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTE

Senator Bivins asked to be recorded as voting "Nay" on the final passage of the bill.

SENATE BILL 1102 ON SECOND READING

On motion of Senator Nelson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1102, Relating to the eligibility to receive indigent health care benefits.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 1102 ON THIRD READING

Senator Nelson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 1102** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

COMMITTEE SUBSTITUTE

SENATE JOINT RESOLUTION 42 ON THIRD READING

Senator Wentworth moved that the regular order of business be suspended and that **C.S.S.J.R. 42** be placed on its third reading and final passage.

C.S.S.J.R. 42, Proposing a constitutional amendment providing for a 55-day budget session of the legislature in even-numbered years and an annual state budget.

The motion prevailed by the following vote: Yeas 18, Nays 6.

Yeas: Brown, Ellis, Haley, Harris of Tarrant, Lucio, Madla, Moncrief, Montford, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Harris of Dallas, Henderson, Leedom, Nelson, Sims.

Absent: Armbrister, Barrientos, Carriker, Turner.

Absent-excused: Luna, Parker, Shelley.

The resolution was read third time and was passed by the following vote: Yeas 21, Nays 7.

Yeas: Armbrister, Barrientos, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Lucio, Madla, Moncrief, Montford, Patterson, Ratliff, Rosson, Shapiro, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Harris of Dallas, Henderson, Leedom, Nelson, Sims, Turner.

Absent-excused: Luna, Parker, Shelley.

CAPITOL PHYSICIAN

Senator Harris of Tarrant was recognized and presented Dr. D. Brett Mitchell of Benbrook as the "Doctor for the Day."

The Senate welcomed Dr. Mitchell and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

COMMITTEE SUBSTITUTE SENATE BILL 1017 ON THIRD READING

Senator Wentworth moved that the regular order of business be suspended and that C.S.S.B. 1017 be placed on its third reading and final passage.

C.S.S.B. 1017, Relating to implementation of legislative budget sessions in even-numbered years and to related changes in the date of the runoff primary election and other election laws.

The motion prevailed by the following vote: Yeas 19, Nays 8.

Yeas: Armbrister, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Lucio, Madla, Moncrief, Montford, Patterson, Ratliff, Rosson, Sibley, Truan, Wentworth, West, Whitmire, Zaffirini.

Nays: Bivins, Harris of Dallas, Henderson, Leedom, Nelson, Shapiro, Sims, Turner.

Absent: Barrientos.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

RECORD OF VOTES

Senators Leedom, Nelson, Shapiro, Sims, and Turner asked to be recorded as voting "Nay" on the final passage of the bill.

COMMITTEE SUBSTITUTE SENATE BILL 1116 ON SECOND READING

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1116, Relating to the issuance of specially designed nature

license plates and establishing the Texas Environmental Education Advisory Committee account in the state treasury.

The bill was read second time.

Senator Turner offered the following amendment to the bill:

Amend C.S.S.B. 1116 as follows:

Section 3, page 3, line 4, insert the following between "transport" and "untreated":
products of the forest in their natural state, including, but not limited to logs, debarked logs.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Zaffirini and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1116 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1116 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 19 ON SECOND READING**

On motion of Senator Moncrief and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 19, Relating to suits affecting the parent-child relationship, including the regulation of adoption procedures; creating offenses and providing penalties.

The bill was read second time.

Senator Moncrief offered the following amendment to the bill:

Amend C.S.S.B. 19 as follows:

Page 3, line 5, between the letter "D" and "." in the section title, add **FOR PENDING ADOPTION.**

Page 3, line 9, delete the word "accepts" and insert the word receives.

Page 3, line 9, delete the words "into evidence".

Page 3, line 12, delete the word "accepted" and insert the word received.

Page 3, line 16, following the word "child," insert the child's step-parent, grandparent, aunt or uncle by birth, marriage, or prior adoption.

Page 3, lines 30 and 31, delete the words "conducted and accepted into evidence" and insert the word received.

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Moncrief and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 19 ON THIRD READING**

Senator Moncrief moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 19 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing of the following enrolled bills and resolutions in the presence of the Senate after the captions had been read:

H.C.R. 31

H.C.R. 24

H.B. 887

H.B. 947

**COMMITTEE SUBSTITUTE
SENATE BILL 1133 ON SECOND READING**

On motion of Senator Harris of Dallas and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1133, Relating to the authority of the consumer credit commissioner and to the regulation of certain consumer credit practices; providing penalties.

The bill was read second time.

Senator Harris of Dallas offered the following amendment to the bill:

Amend C.S.S.B. 1133, page 9, lines 59-62, by deleting the following: "It is the intent of the Legislature that the enactment of Article 5069-2.09 is prospective but shall not be construed to mean that transactions described therein are not loans under current law."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Harris of Dallas and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1133 ON THIRD READING**

Senator Harris of Dallas moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1133 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 724 ON SECOND READING**

On motion of Senator Whitmire and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 724, Relating to the county in which a defendant released on parole or mandatory supervision must reside as a condition of release and to a report by the Criminal Justice Policy Council on the number of inmates released to each county.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 724 ON THIRD READING**

Senator Whitmire moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 724** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1206 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1206, Relating to the Texas Low-Level Radioactive Waste Disposal Compact.

The bill was read second time.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 1206** as follows:

1. On page 9, line 24, after "the" and before "party" insert "initial".

2. On page 12, line 17, delete "one-third" and substitute with "its pro-rata share"

3. On page 15, line 9, delete "legislature of all of the party states by statute" and substitute "legislature of the host state, subject to fulfillment of the rights of the initial non-host party states under Section 3.04(11) of Article III and Section 4.01 of Article IV."

4. On page 15, line 14, after "compact" and before "may" insert the following: ", except for those pertaining to the composition of the commission and those pertaining to Sec. 7.09,"

5. On page 16, line 1, insert the following after the period: "In the event the host state allows an additional state or additional states to join the compact, the host state's legislature, without the consent of the non-host party states, shall have the right to modify the composition of the commission so that the host state shall have a voting majority on the commission; provided, however, that any modification maintains the right of each initial party state to retain one voting member on the commission."

6. On page 17, line 23, delete "one-half" and substitute with "its pro-rata share".

7. On page 17, add the following as a new Sec. 7.09:

"Sec. 7.09. The host state legislature, with the approval of the governor, shall have the right and authority, without the consent of the non-host party states, to modify the provisions contained in Section 3.04(11) to comply with Section 402.219(c)(1), Health and Safety Code, as long as the modification does not impair the rights of the initial non-host party states."

The amendment was read and was adopted by a viva voce vote.

Senator Sims offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 1206 as follows:

1. On page 15, lines 26 and 27, delete the following: "This section sets out the exclusive remedies for the non-host party states if the host state withdraws from the compact."

2. On page 16, line 1, delete the following: "or is unable to develop and operate a compact facility."

3. On page 16, line 12, add as the last sentence in Sec. 7.04: This section sets out the exclusive remedies for the non-host party states if the host state withdraws from the compact or is unable to develop and operate a compact facility."

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 3

Amend C.S.S.B. 1206 by adding, after the period on page 1, line 31, the following language:

"One of the voting members of the compact commission shall be a legal resident of Hudspeth County, Texas."

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Sims and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1206 ON THIRD READING**

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1206 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 26, Nays 2.

Yeas: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Moncrief, Montford, Nelson, Patterson, Ratliff, Rosson, Shapiro, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire.

Nays: Madla, Zaffirini.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by the following vote: Yeas 26, Nays 2. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1260 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1260, Relating to the involuntary termination of the parent-child relationship.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1260 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 1260 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 1284 ON SECOND READING**

On motion of Senator Bivins and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1284, Relating to the fingerprinting and photographing of certain children.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1284 ON THIRD READING**

Senator Bivins moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1284** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 600 ON SECOND READING**

On motion of Senator Patterson and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 600, Relating to the admissibility into evidence of a recording of an oral statement of a child who is the victim of certain crimes.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 600 ON THIRD READING**

Senator Patterson moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 600** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

HOUSE BILL 521 ON SECOND READING

On motion of Senator Brown and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

H.B. 521, Relating to the forfeiture of a bond in satisfaction of a fine and costs in a misdemeanor case punishable by fine only.

The bill was read second time and was passed to third reading by a viva voce vote.

HOUSE BILL 521 ON THIRD READING

Senator Brown moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **H.B. 521** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

(Senator Haley in Chair)

**COMMITTEE SUBSTITUTE
HOUSE BILL 2498 ON SECOND READING**

On motion of Senator Carriker and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to third reading:

C.S.H.B. 2498, Relating to the regulation of physician assistants; providing a criminal penalty.

The bill was read second time and was passed to third reading by a viva voce vote.

**COMMITTEE SUBSTITUTE
HOUSE BILL 2498 ON THIRD READING**

Senator Carriker moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.H.B. 2498** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 901 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 901, Relating to the award of a certificate of number and the collection of certain taxes by an authorized agent of the Parks and Wildlife Department.

The bill was read second time and was passed to engrossment by a viva voce vote.

SENATE BILL 901 ON THIRD READING

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **S.B. 901** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 965 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 965, Relating to the authority of the Upper Guadalupe River Authority to appropriate state water for recharging certain underground fresh water bearing sands and aquifers.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 965 ON THIRD READING**

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 965** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by the following vote: Yeas 28, Nays 0. (Same as previous roll call)

**COMMITTEE SUBSTITUTE
SENATE BILL 971 ON SECOND READING**

On motion of Senator Sims and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 971, Relating to the designation of wildlife management areas and to the issuance of wildlife management association area hunting lease licenses.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 971 ON THIRD READING**

Senator Sims moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 971** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

(President in Chair)

**COMMITTEE SUBSTITUTE
SENATE BILL 892 ON SECOND READING**

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 892, Relating to simplifying the application, calculation, administration and reporting of, and the calculation of interest on, certain taxes; providing penalties.

The bill was read second time.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 1

Amend **C.S.S.B. 892** as follows:

(1) Amend Section 111.107 in SECTION 9 of **C.S.S.B. 892**, on page 2, line 46 of the committee printing, by striking "Section 111.104(c)(3)" and inserting in its place "Section 111.104(c)(4) [Section 111.104(c)(3)]".

(2) Amend Section 111.205 in SECTION 11 of **C.S.S.B. 892**, on page 3, lines 6-8 of the committee printing, by deleting Subsection (b) and inserting in its place the following:

(b) In this section, "gross" error means that, after correction of the error, the amount of tax due and payable exceeds the amount initially reported by at least 25 percent.

(3) Amend Section 151.103 in SECTION 13 of **C.S.S.B. 892**, on page 3, line 44 of the committee printing, by striking "sale" and inserting in its place "storage, use, or other consumption".

(4) Amend Section 151.328 in SECTION 15 of **C.S.S.B. 892**, on page 4, line 35 of the committee printing, by striking "felony of the third degree" and inserting in its place "misdemeanor punishable by a fine not to exceed \$500".

(5) Amend SECTION 27 of **C.S.S.B. 892**, on page 6, line 70 of the committee printing, by striking "Section 152.001" and inserting in its place "Section 157.001".

(6) Amend Section 160.062 in SECTION 32 of **C.S.S.B. 892**, on page 8, line 24 of the committee printing, by striking "STATEMENTS" and inserting in its place "AFFIDAVITS".

(7) Amend Section 160.062 in SECTION 32 of **C.S.S.B. 892**, on page 8, line 28 of the committee printing, by striking "third-degree felony" and inserting in its place "misdemeanor punishable by a fine not to exceed \$500".

(8) Delete SECTION 36 of **C.S.S.B. 892**, on page 9, lines 24-27 of the committee printing, and inserting in its place the following:

SECTION 36. (a) Except as provided by Subsections (b) and (c) of this section, this Act takes effect October 1, 1993.

(b) Sections 3, 4, 6, 7, 8, 9, 10, 11, and 12 take effect September 1, 1993.

(c) Sections 1, 2, 5, 33, and 34 take effect January 1, 1994.

(9) Delete SECTION 37 of **C.S.S.B. 892**, on page 9, lines 28-33 of the committee printing, and renumber the remaining section accordingly.

The amendment was read and was adopted by a viva voce vote.

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend C.S.S.B. 892 as follows;

Add a new SECTION 15 to C.S.S.B. 892 to read as follows and renumber subsequent sections accordingly:

SECTION 15. Section 151.318(c), Tax Code, is amended to read as follows:

(c) The exemption does not include:

(1) machinery, equipment, or replacement parts or their accessories having a useful life when new in excess of six months;

(2) intraplant transportation equipment, maintenance or janitorial supplies or equipment, or other machinery, equipment, materials, or supplies that are used incidentally in a manufacturing, processing, or fabrication operation;

(3) hand tools; ~~or~~

(4) office equipment or supplies, equipment or supplies used in sales or distribution activities, research or development of new products, or transportation activities, or other tangible personal property not used in an actual manufacturing, processing, or fabrication operation[~~;~~ ~~or~~

~~[(5) internal or external wrapping, packing, and packaging supplies, as defined by Section 151.302(d), purchased for a person's own use, stored for use, or used in wrapping, packing, or packaging tangible personal property].~~

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 892 ON THIRD READING**

Senator Montford moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that C.S.S.B. 892 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

MESSAGE FROM THE HOUSE

House Chamber
April 30, 1993

Mr. President: I am directed by the House to inform the Senate that the House has passed the following:

S.C.R. 73, Extending sincere condolences to the members of the family of Graciela Inocencio Trevino.

S.C.R. 75, Honoring teachers and students participating in the H.E.B./General Land Office Environmental Challenge.

H.C.R. 118, Commending Joyce Sparks and other staff of the Texas Department of Protective and Regulatory Services for their exceptional assistance during the Branch Davidian crisis.

H.C.R. 120, Commending the Women Airforce Service Pilots of World War II on the occasion of their 50th anniversary.

H.C.R. 121, Congratulating the citizens of San Antonio on the 25th anniversary of HemisFair.

H.C.R. 123, Directing the State Preservation Board to restore to the north and south sides of the Capitol the mosaic seals of the six nations that have governed Texas.

H.C.R. 129, Paying tribute to the life of Marian Anderson.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

**COMMITTEE SUBSTITUTE
SENATE BILL 1130 ON SECOND READING**

On motion of Senator Zaffirini and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

C.S.S.B. 1130, Relating to the Interagency Council on Sex Offender Treatment; creating an offense and providing a penalty.

The bill was read second time and was passed to engrossment by a viva voce vote.

**COMMITTEE SUBSTITUTE
SENATE BILL 1130 ON THIRD READING**

Senator Zaffirini moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that **C.S.S.B. 1130** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 1132 ON SECOND READING

On motion of Senator Armbrister and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 1132, Relating to payment of death benefits to certain peace officers of the state of Texas.

The bill was read second time.

Senator Armbrister offered the following amendment to the bill:

Amend S.B. 1132 as follows:

(1) Strike Section 3 of the bill and substitute the following:

SECTION 3. (a) Subchapter C, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.206 to read as follows:

Sec. 12.206. PAYMENT OF DEATH BENEFITS. The committee may use the operation game thief fund to supplement any death benefits received by the families of peace officers employed by the department who are killed in the line of duty. A death benefit payment under this section shall be equal to at least 20 percent of the current balance of the fund, except that the payment may not be less than \$10,000 or more than \$20,000. The committee shall adopt guidelines for the payment of death benefits under this section.

(b) Subchapter C, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.206 to read as follows:

Sec. 12.206. PAYMENT OF DEATH BENEFITS. The committee may use the operation game thief fund to supplement any death benefits received by the families of peace officers employed by the department who are killed in the line of duty. A death benefit payment under this section shall be equal to at least 20 percent of the current balance of the fund, except that the payment may not be less than \$10,000 or more than \$50,000. The committee shall adopt guidelines for the payment of death benefits under this section.

(c) Subsection (a) of this section, which amends the Parks and Wildlife Code by adding Section 12.206 to authorize payment of supplemental death benefits of up to \$20,000 to the family of a peace officer employed by the Parks and Wildlife Department who is killed in the line of duty, takes effect only if the 73rd Legislature in regular session enacts a bill that becomes law that amends Section 3, Chapter 86, Acts of the 60th Legislature, Regular Session, 1967 (Article 6228f, Vernon's Texas Civil Statutes), to increase the death benefit paid by the state to the survivors of certain public servants killed in the line of duty. Subsection (b) of this section, which amends the Parks and Wildlife Code by adding Section 12.206 to authorize payment of supplemental death benefits of up to \$50,000 to the family of a peace officer employed by the Parks and Wildlife Department who is killed in the line of duty, takes effect only if the 73rd Legislature in regular session does not enact such a bill that becomes law.

(2) In Section 4 of the bill, between "takes effect" and "September 1", insert "according to its terms".

The amendment was read and was adopted by a viva voce vote.

On motion of Senator Armbrister and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment by a viva voce vote.

SENATE BILL 1132 ON THIRD READING

Senator Armbrister moved that Senate Rule 7.18 and the Constitutional Rule requiring bills to be read on three several days be suspended and that S.B. 1132 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 0.

Absent-excused: Luna, Parker, Shelley.

The bill was read third time and was passed by a viva voce vote.

SENATE BILL 63 WITH HOUSE AMENDMENT

Senator Leedom called S.B. 63 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Committee Amendment No. 1

Amend S.B. 63 as follows:

(1) On page 2, delete lines 16-20 and substitute the following:

"Sec. 3. PURPOSES FOR WHICH ANTICIPATION NOTES MAY BE AUTHORIZED. The commissioners court of a county, on recommendation of the county auditor or budget officer if applicable, or the governing body of a municipality, may authorize anticipation notes to:"

(2) On page 2, delete line 25 and on page 3, delete line 1 and substitute the following:

"machinery, buildings, lands, and rights-of-way for an issuer's authorized needs and purposes;"

(3) On page 3, line 11, delete the language "home-rule".

(4) On page 3, line 12, delete the language "20,000" and substitute the language "80,000".

(5) On page 4, delete lines 21-24 and substitute the following:

"(c) A governing body may not issue anticipation notes that are to be payable from bonds secured by ad valorem taxes unless the proposition authorizing the issuance of the bonds has been approved by a majority of the voters in an election held by the issuer and the proposition states that anticipation notes may be issued."

(6) On page 5, line 2, delete the language "12" and substitute the language "24".

(7) On page 5, line 12, after the word "issued" and before the word "under", add the following:
"by a municipality"

(8) On page 5, line 15, add the following after the period:
"Anticipation notes issued by a county under Subdivision (4) of Section 3 of this article may not exceed 50 percent of the revenues or taxes anticipated to be collected in the fiscal year in which the attorney general approves the notes."

(9) On page 6, line 15, add the following after the language "September 1, 1993.":

"Section 6(c) of this article shall not apply to anticipation notes that are to be payable from bonds secured by ad valorem taxes for projects which have been approved by a majority of the voters of the issuer voting at an election held prior to September 1, 1993."

The amendment was read.

On motion of Senator Leedom and by unanimous consent, the Senate concurred in the House amendment to S.B. 63 by a viva voce vote.

**SENATE CONCURRENT RESOLUTION 61
WITH HOUSE AMENDMENT**

Senator Armbrister called S.C.R. 61 from the President's table for consideration of the House amendment to the resolution.

The President laid the resolution and the House amendment before the Senate.

Amendment No. 1

Amend S.C.R. 61 by striking lines 6 through 17 and substituting the following:

WHEREAS, Former State Representative R. H. "Dick" Cory and his wife, Marie Cory, and former State Representative Robert E. Johnson and his wife, Judy Johnson, are eligible under state law for burial in the State Cemetery; and

WHEREAS, Mr. and Mrs. Cory and Mr. and Mrs. Johnson desire to have their infant daughters, Joyce Helen Cory and Anna Marie Johnson, reinterred in the State Cemetery; now, therefore, be it

RESOLVED, That the 73rd Legislature of the State of Texas hereby authorize the burial of Joyce Helen Cory and Anna Marie Johnson in the State Cemetery, provided proper application for assignment of burial spaces is made to the General Services Commission as required by state law.

The amendment was read.

Senator Armbrister moved to concur in the House amendment to S.C.R. 61.

The motion prevailed by a viva voce vote.

SENATE BILL 82 WITH HOUSE AMENDMENT

Senator Montford called S.B. 82 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.

Amendment

Amend S.B. 82 by substituting in lieu thereof the following:

**A BILL TO BE ENTITLED
AN ACT**

relating to the administration, collection, enforcement, and application of, and exemptions from, various taxes and fees; creating offenses and providing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

ARTICLE 1

SECTION 1.01. Section 101.003, Tax Code, is amended by amending Subdivisions (8) and (11) and adding Subdivision (12) to read as follows:

(8) "Taxpayer" means a person liable for a tax, fee, assessment,

or other amount imposed by a statute or under the authority of a statutory function administered by the comptroller [this title].

(11) "Report" means a tax return, declaration, statement, or other document required to be filed with the comptroller ~~[by a provision of this title].~~

(12) "Obligation" means the duty of a person to pay a tax, fee, assessment, or other amount or to make, file, or keep a report, certificate, affidavit, or other document.

SECTION 1.02. Subchapter A, Chapter 111, Tax Code, is amended by adding Section 111.0022 to read as follows:

Sec. 111.0022. APPLICATION TO OTHER LAWS ADMINISTERED BY COMPTROLLER. This subtitle and Subtitle A of this title apply to the administration, collection, and enforcement of other taxes, fees, and charges, including penalties, or other financial transactions, that the comptroller is required or authorized to collect or administer under other law, to the extent that the other law does not conflict with this subtitle or Subtitle A of this title.

SECTION 1.03. Subsections (e), (g), and (h), Section 111.021, Tax Code, are amended to read as follows:

(e) A notice under this section that attempts to prohibit the transfer or disposal of an asset possessed or controlled by a bank is ~~[not]~~ effective ~~if [unless]~~ it is delivered or mailed to the principal or any branch office of the bank, including any [or the] office of the bank at which the deposit is carried or the credit or property is held.

(g) At any time during the ~~[last 45 days of the]~~ 60-day period as stated in Subdivision (2) of Subsection (d) of this section, the comptroller may levy upon the asset or debt. The levy shall be accomplished by delivery of a notice of levy, upon receipt of which the person possessing the asset or debt shall transfer the asset to the comptroller or pay to the comptroller the amount owed to the delinquent or to the person against whom the unpaid determination is made.

(h) A notice delivered under this section is effective;

(1) at the time of delivery against all property, rights to property, credits, and/or debts involving the delinquent taxpayer which are not at the time of [the [such]] notice subject to an attachment, garnishment, or execution issued through a judicial process; and

(2) against all property, rights to property, credits and/or debts involving the delinquent taxpayer that come into the possession or control of the person served with the notice within the 60-day period provided by Subdivision (2) of Subsection (d) of this section.

SECTION 1.04. Section 111.051, Tax Code, is amended to read as follows:

Sec. 111.051. REPORTS AND PAYMENTS; DUE DATES; METHOD OF PAYMENT. (a) The comptroller may set the date for filing a report for and making a payment of a tax imposed by this title.

(b) A date set by the comptroller under this section prevails over a different date prescribed by this title for the filing of a report for or the payment of a tax, except that the comptroller may only set a report or payment date for the state sales and use tax that conflicts with the dates

prescribed by Chapter 151 of this code in case of public calamity or natural disaster.

(c) The comptroller may require that all payments from a taxpayer who files tax reports monthly and remits three or more dishonored or insufficient funds checks or drafts within a six-month period be remitted using certified instruments. The comptroller may require that all payments from a taxpayer who files tax reports quarterly and remits three or more dishonored or insufficient funds checks or drafts within an 18-month period be remitted by using certified instruments. In this subsection, "certified instruments" includes cashier's checks and money orders. The comptroller shall send written notice of a payment restriction under this subsection to the taxpayer at the business address shown on the comptroller's records. A failure to remit a payment by a certified instrument after imposition of the payment restriction by the comptroller is grounds for the suspension and revocation of a permit or license as provided by Section 111.0047 of this code.

SECTION 1.05. Section 111.201, Tax Code, is amended to read as follows:

Sec. 111.201. ASSESSMENT AND REFUND LIMITATION. (a) No tax imposed by this title may be assessed after four years from the date that the tax becomes due and payable.

(b) No refund of any tax imposed by this title may be made by the comptroller after four years after the date that the tax was paid, except on tolling of the statute of limitations for refunds as provided in this title. This subsection does not apply to a credit or refund due under Section 151.427.

SECTION 1.06. Section 151.316, Tax Code, is amended to read as follows:

Sec. 151.316. AGRICULTURAL ITEMS. (a) The following items are exempted from the taxes imposed by this chapter:

- (1) horses, mules, and work animals;
- (2) animal life the products of which ordinarily constitute food for human consumption;
- (3) feed for farm and ranch animals;
- (4) feed for animals that are held for sale in the regular course of business;
- (5) seeds and annual plants the products of which:
 - (A) ordinarily constitute food for human consumption;
 - (B) are to be sold in the regular course of business; or
 - (C) are used to produce feed for animals exempted by this section;
- (6) fertilizers, fungicides, insecticides, herbicides, defoliants, and desiccants exclusively used or employed on a farm or ranch in the production of:
 - (A) food for human consumption;
 - (B) feed for animal life; or
 - (C) other agricultural products to be sold in the regular course of business;

(7) machinery and equipment exclusively used or employed on a farm or ranch in the building or maintaining of roads or water facilities or in the production of:

(A) food for human consumption;

(B) grass;

(C) feed for animal life; or

(D) other agricultural products to be sold in the regular course of business;

(8) machinery and equipment exclusively used in the processing, packing, or marketing of agricultural products by the original producer at a location operated by the original producer exclusively for processing, packing, or marketing the producer's own products; and

(9) ice exclusively used by commercial fishing boats in the storing of aquatic species including but not limited to shrimp, other crustaceans, finfish, mollusks, and other similar creatures.

(b) Tangible personal property sold or used to be installed as a component of an underground irrigation system or a system to remove excess water from fields is exempt from the taxes imposed by this chapter if the system is exclusively used or employed on a farm or ranch in the production of:

(1) food for human consumption;

(2) grass;

(3) feed or forage for:

(A) animal life the products of which ordinarily constitute food for human consumption; or

(B) horses, mules, and work animals; or

(4) other agricultural products to be sold in the regular course of business.

SECTION 1.07. Subchapter L, Chapter 151, Tax Code, is amended by adding Section 151.7031 to read as follows:

Sec. 151.7031. FAILURE TO REPORT ON THREE OR MORE OCCASIONS; CIVIL PENALTY. A person who is required to file a report under this chapter, who fails to file the report under this chapter, and who has on two or more previous occasions failed to file a timely report under this chapter shall pay an additional penalty of \$50. The penalty provided by this section is assessed without regard to whether the taxpayer subsequently files the report or whether no taxes were due from the taxpayer for the reporting period under the required report.

SECTION 1.08. Section 151.707, Tax Code, is amended to read as follows:

Sec. 151.707. RESALE OR EXEMPTION CERTIFICATE; CRIMINAL PENALTY. (a) A person commits an offense if the person:

(1) intentionally or knowingly makes a false entry in, or a fraudulent alteration of, an exemption or resale certificate;

(2) makes, presents, or uses an exemption certificate or resale certificate with knowledge that it is false and with the intent that it be accepted as a valid resale or exemption certificate; or

(3) intentionally conceals, removes, or impairs the verity or legibility of an exemption or resale certificate or unreasonably impedes the

~~availability of an exemption or resale certificate [gives a resale certificate to a seller for property that the person knows, at the time of purchase, is purchased for the purpose of use and not for the purpose of resale, lease, or rental by the person to another in the regular course of business or for transfer as an integral part of a taxable service performed in the regular course of business].~~

~~(b) An offense under Subsection (a)(1) or (a)(2) of this section is:~~

~~(1) a Class C misdemeanor if the tax avoided by the use of the exemption or resale certificate is less than \$20;~~

~~(2) a Class B misdemeanor if the tax avoided by the use of the exemption or resale certificate is \$20 or more, but less than \$200;~~

~~(3) a Class A misdemeanor if the tax avoided by the use of the exemption or resale certificate is \$200 or more, but less than \$750;~~

~~(4) a felony of the third degree if the tax avoided by the use of the exemption or resale certificate is \$750 or more, but less than \$20,000;~~
~~or~~

~~(5) a felony of the second degree if the tax avoided by the use of the exemption or resale certificate is \$20,000 or more. [An offense under this section is a misdemeanor punishable by a fine of not more than \$500.]~~

SECTION 1.09. Subchapter A, Chapter 153, Tax Code, is amended by adding Section 153.0061 to read as follows:

Sec. 153.0061. SUMMARY SUSPENSION OF PERMIT. (a) The comptroller may suspend a person's permit without notice or a hearing for the person's failure to comply with this chapter or a rule adopted under this chapter if the person's continued operation constitutes an immediate and substantial threat to the collection of taxes imposed by this chapter and attributable to the person's operation.

(b) If the comptroller summarily suspends a person's permit, proceedings for a preliminary hearing before the comptroller or the comptroller's representative must be initiated simultaneously with the summary suspension. The preliminary hearing shall be set for a date not later than 10 days after the date of the summary suspension, unless the parties agree to a later date.

(c) At the preliminary hearing, the permit holder must show cause why the permit should not remain suspended pending a final hearing on suspension or revocation.

(d) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to a summary suspension under this section.

(e) To initiate a proceeding to suspend summarily a person's permit, the comptroller shall serve notice on the permit holder informing the permit holder of the right to a preliminary hearing before the comptroller or the comptroller's representative and of the time and place of the preliminary hearing. The notice must be personally served on the permit holder or an officer, employee, or agent of the permit holder, or sent by certified or registered mail, return receipt requested, to the permit holder's mailing address as it appears on the comptroller's records. The notice must state the alleged violations that constitute the grounds for summary

suspension. The suspension is effective at the time the notice is served. If the notice is served in person, the permit holder shall immediately surrender the permit to the comptroller or to the comptroller's representative. If notice is served by mail, the permit holder shall immediately return the permit to the comptroller.

(f) Section 153.006, governing hearings for permit cancellation or refusal to issue a permit under this chapter, governs a final administrative hearing under this section.

SECTION 1.10. Section 153.007, Tax Code, is amended to read as follows:

Sec. 153.007. ENFORCEMENT OF PERMIT CANCELLATION, SUSPENSION, OR REFUSAL. (a) The comptroller may examine any books and records incident to the conduct of the business of a person whose permit has been canceled or suspended on the person's failure to file the reports required by this chapter or to remit all taxes due. The comptroller shall issue an audit deficiency determination of the amount of delinquent taxes, penalties, and interest, containing a demand for payment. The deficiency determination shall provide that if neither a payment is made nor a request for a redetermination is filed within 30 days after the date of the notice of the deficiency, the amount of the determination becomes due and payable. If the amount is not paid on or before the 44th day after service of the notice of the deficiency determination, the bond or other security required under this chapter shall be forfeited. The demand for payment shall be addressed to both the surety or sureties and the person who owes the delinquency.

(b) If the forfeiture of the bond or other security does not satisfy the delinquency, the comptroller shall certify the taxes, penalty, and interest delinquent to the attorney general, who may file suit against the person or his surety or both to collect the amount due. After being given notice of an order of cancellation or summary suspension, it shall be unlawful for any person to continue to operate his business under a canceled or suspended permit. The attorney general may file suit to enjoin the person from continuing to operate under his permit until the person's permit is reissued by the comptroller.

(c) An appeal from an order of the comptroller canceling or suspending or refusing the issuance or reissuance of a permit may be taken to a district court of Travis County by the aggrieved permittee or applicant. The trial shall be de novo under the same rules as ordinary civil suits, except that:

(1) an appeal must be perfected and filed within 30 days after the effective date of the order, decision, or ruling of the comptroller;

(2) the trial of the case shall begin within 10 days after its filing; and

(3) the order, decision, or ruling of the comptroller may be suspended or modified by the court pending a trial on the merits.

SECTION 1.11. Section (1), Article 8802, Revised Statutes, is amended to read as follows:

(1) Every "owner", save an owner holding an import license and

holding coin-operated machines solely for re-sale, who exhibits, displays, or who permits to be exhibited or displayed in this State any "coin-operated machine" shall pay, and there is hereby levied on each "coin-operated machine", as defined herein in Article 8801, except as are exempt herein, an annual occupation tax of \$60.00. The tax shall be paid to the comptroller by cashier's check or money order. The annual tax levied by this chapter may be collected by the comptroller on a quarterly basis. The comptroller may establish procedures for quarterly collection and set due dates for the tax payments. The tax due from the owner of a coin-operated machine first exhibited or displayed in this State later than March 31 shall be prorated on a quarterly basis, with one-fourth of the annual tax due for each quarter or portion of a quarter remaining in the calendar year. No refund or credit of the annual tax levied by this chapter may be allowed to any owner who ceases the exhibition or display of any coin-operated machine prior to the end of any calendar year. Subtitle B, Title 2, Tax Code, applies to the administration, collection, and enforcement of the taxes, penalties, and interest imposed by this chapter.

SECTION 1.12. Section (2), Article 8807, Revised Statutes, is amended to read as follows:

(2) If any individual, company, corporation or association who owns, operates, exhibits or displays any coin-operated machine in this State, shall violate any provision of this Chapter or any rule and regulation promulgated hereunder, the Comptroller may investigate the violation and may impose ~~seek~~ sanctions, including suspension or revocation of a license, permit, or registration certificate issued under this chapter.

SECTION 1.13. Article 8811, Revised Statutes, is amended to read as follows:

Art. 8811. VIOLATIONS OF ACT; PENALTY; ENFORCEMENT ~~[SUIT TO RECOVER PENALTY]~~. If any "owner" of a coin-operated machine within this State shall (a) permit any coin-operated machine under his control to be operated, exhibited or displayed within this State without said permit being permanently attached thereto, or (b) if any person shall exhibit or display within this State any coin-operated machine without having annexed or attached thereto a permit issued by the Comptroller showing the payment of the tax due thereon for the current year, or (c) if any person exhibits or displays a coin-operated machine that is not registered with the Comptroller, or (d) shall fail to keep such records, or (e) shall refuse or fail to present such records for inspection upon the demand of the Comptroller or an authorized representative of the Comptroller, or (f) if any person in this State shall use any artful device or deceptive practice to conceal any violation of this Chapter, or (g) mislead the Comptroller or an authorized representative of the Comptroller in the enforcement of this Chapter, or (h) if any person in this State shall fail to comply with the provisions of this Chapter, or violate the same, or (i) if any person in this State shall fail to comply with the rules and regulations promulgated by the Comptroller, or violate the same, the Comptroller in addition to the other remedies provided in this Chapter may assess a penalty in the sum of not less than Fifty Dollars (\$50) ~~[Five Dollars (\$5)]~~ nor more than Two Thousand Dollars (\$2,000) ~~[Five Hundred~~

~~Dollars (\$500)].~~ Each day's violation shall constitute a separate offense and incur another penalty, which, if not paid may be recovered by the Comptroller in any manner available for the recovery of delinquent taxes under Subtitle B, Title 2, Tax Code, or in a suit by the Attorney General of this State in a court of competent jurisdiction in Travis County, Texas~~[-or any court having jurisdiction].~~

SECTION 1.14. Subdivision (2), Section 8, Article 8817, Revised Statutes, is amended to read as follows:

(2) A person who knowingly violates Subdivision (1) of this Section is guilty of a Class ~~A~~ B misdemeanor. A person who knowingly secures or attempts to secure a license under this Article by fraud, misrepresentation, or subterfuge is guilty of a felony of the second ~~third~~ degree.

SECTION 1.15. Section 17, Article 8817, Revised Statutes, is amended to read as follows:

Sec. 17. REMOVAL OF PERMIT PROHIBITED; PENALTY. (1) A person may not ~~intentionally~~ remove or cause to be removed a current tax permit from a music or skill or pleasure coin-operated machine.

(2) A person who violates this Section is guilty of a Class B ~~E~~ misdemeanor.

SECTION 1.16. Subdivision (1), Section 20, Article 8817, Revised Statutes, is amended to read as follows:

(1) The Comptroller may refuse to issue or renew a license or registration certificate or may revoke or suspend a license or registration certificate issued pursuant to the authority of this Article if:

(a) the licensee or applicant has ~~intentionally~~ violated a provision of this Article or a regulation promulgated pursuant to the authority of this Article;

(b) the licensee or applicant has ~~intentionally~~ failed to answer a question, or ~~intentionally~~ made a false statement in, or in connection with, his application or renewal;

(c) the licensee or applicant extends credit without registering his intent to do so with the consumer credit commission;

(d) the licensee or applicant uses coercion to accomplish a purpose or to engage in conduct regulated by the Comptroller;

(e) a contract or agreement between the licensee or applicant and a location owner contains a restriction, of any kind and to any degree, on the right of the location owner to purchase, agree to purchase, or use a product, commodity, or service not regulated under the terms of this Article; or

(f) failure to suspend or revoke the license would be contrary to the intent and purpose of this Article.

SECTION 1.17. Article 8817, Revised Statutes, is amended by adding Section 27 to read as follows:

Sec. 27. SUITS BY ATTORNEY GENERAL. (1) On request by the Comptroller, the Attorney General may file suit for an injunction prohibiting a person from engaging in business to manufacture, own, buy, sell, or rent, lease, trade, lend, or furnish to another, or repair, maintain, service, transport within the state, store, or import a music coin-operated

machine or a skill or pleasure coin-operated machine without a license or registration certificate issued under this Article.

(2) The district courts of Travis County, Texas, have exclusive, original jurisdiction of a suit brought under this section.

SECTION 1.18. The following provisions of the Tax Code are repealed:

(1) Section 151.502; and

(2) Section 151.706.

SECTION 1.19. This article takes effect September 1, 1993, and applies to the collection and enforcement of taxes imposed before, on, or after the effective date of this article.

ARTICLE 2

SECTION 2.01. Subchapter F, Chapter 153, Tax Code, is amended by adding Section 153.5015 to read as follows:

Sec. 153.5015. DELAY IN ALLOCATION OF TAXES.

(a) Notwithstanding any other law, the comptroller shall allocate and deposit as soon as practicable after September 5, 1995, and no later than September 10, 1995:

(1) the unclaimed refunds of gasoline taxes under Section 153.502 for June, July, and August, 1995;

(2) the gasoline taxes collected under Subchapter B for June, July, and August, 1995;

(3) the diesel fuel taxes collected under Subchapter C for June, July, and August, 1995; and

(4) the liquefied gas taxes collected under Subchapter D for June, July, and August, 1995.

(b) This section expires October 1, 1995.

SECTION 2.02. This article takes effect September 1, 1993.

ARTICLE 3

SECTION 3.01. Chapter 31, Human Resources Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING FINANCIAL ASSISTANCE

Sec. 31.071. DEFINITION. In this subchapter, "wages" has the meaning assigned by Sections 51(c)(1), (2), and (3), Internal Revenue Code of 1986 (26 U.S.C. Section 51).

Sec. 31.072. TAX REFUND VOUCHER. (a) The department shall issue a tax refund voucher in the amount allowed by this subchapter and subject to the restrictions imposed by this subchapter to a person that meets the eligibility requirements under this subchapter.

(b) A person issued a tax refund voucher may, subject to the provisions of this subchapter, apply for the amount of the refund of a tax that is paid by the person to this state if the tax is administered by the comptroller and deposited to the credit of the general revenue fund without dedication.

Sec. 31.073. AMOUNT OF REFUND; LIMITATION. (a) The amount of the refund allowed under this subchapter is equal to 20 percent of the total wages, up to a maximum of \$10,000 in wages for each employee, paid or incurred by a person for services rendered by an employee of the

person during the period beginning with the date the employee begins work for the person and ending on the first anniversary of that date.

(b) The refund claimed for a calendar year may not exceed the amount of net tax paid by the person to this state, after any other applicable tax credits, in that calendar year.

Sec. 31.074. ELIGIBILITY. A person is eligible for the refund for wages paid or incurred by the person, during each calendar year for which the refund is claimed, only if:

(1) the wages paid or incurred by the person are for services of an employee who is:

(A) a resident of this state; and

(B) a recipient of financial assistance and services in accordance with this chapter;

(2) the person satisfies the certification requirements under Section 31.075; and

(3) the person provides and pays for the benefit of the employee at least 80 percent of the cost of major medical health insurance coverage that provides for:

(A) a maximum \$300 deductible to the employee; and

(B) payment by the insurance provider of at least 70 percent of insurance claims during the claim year in excess of the deductible.

Sec. 31.075. CERTIFICATION. A person is not eligible for the refund for wages paid or incurred by the person unless the person has received a written certification from the appropriate state agency responsible for certification that the employee is a recipient of financial assistance and services on or before the day the employee begins employment with the person.

Sec. 31.076. APPLICATION FOR REFUND: ISSUANCE. (a) A person may apply for a tax refund voucher for wages paid an employee in a calendar year only on or after January 1 and before April 1 of the following calendar year.

(b) The department shall promulgate a form for the application for the tax refund voucher. A person must use this form in applying for the refund.

(c) On issuance of the tax refund voucher to the person by the department, the person may apply the voucher against a tax paid by the person to this state only for the calendar year for which the voucher is issued.

SECTION 3.02. Subchapter C, Chapter 111, Tax Code, is amended by adding Section 111.109 to read as follows:

Sec. 111.109. TAX REFUND FOR WAGES PAID TO EMPLOYEE RECEIVING AID TO FAMILIES WITH DEPENDENT CHILDREN. The comptroller shall issue a refund for a tax paid by a person to this state in the amount of a tax refund voucher issued by the Texas Department of Human Services under Subchapter D, Chapter 31, Human Resources Code, subject to the provisions of that subchapter.

SECTION 3.03. (a) This article takes effect January 1, 1994.

(b) A person may claim the refund under Subchapter D, Chapter 31,

Human Resources Code, as added by this article, only for any wages paid or incurred on or after the effective date of this article and only on a tax due on or after that date.

ARTICLE 4

SECTION 4.01. Article 9.46, Insurance Code, is amended to read as follows:

Art. 9.46. MAINTENANCE FEE: DISPOSITION OF UNEXPENDED BALANCE ~~[TAX ON GROSS PREMIUMS]~~. The State of Texas by and through the State Board of Insurance shall charge an annual maintenance fee necessary to pay the expenses of the regulation of title insurers and title insurance agents during the succeeding year. The State Board of Insurance shall determine the rate of assessment and collect a maintenance fee in an amount not to exceed one percent of all amounts defined to be premium in this chapter. This fee is not a tax and shall be reported and paid separately from premium and retaliatory taxes ~~[annually determine the rate of assessment on an annual or semiannual basis, as determined by the Board, and collect a maintenance tax in an amount not to exceed one percent of the correctly reported gross title insurance premiums of all authorized insurers writing title insurance in this state. The tax required by this article is in addition to all other taxes now imposed or that may be subsequently imposed and that are not in conflict with this article]~~. The State Board of Insurance, after taking into account the unexpended funds produced by this fee ~~[tax]~~, if any, shall adjust the rate of assessment each year to produce the amount of funds that it estimates will be necessary to pay all the expenses of regulating title insurance during the succeeding year. The fees ~~[taxes]~~ collected shall be deposited in the State Treasury to the credit of the State Board of Insurance operating fund and shall be spent as authorized by legislative appropriation only on warrants issued by the comptroller of public accounts pursuant to duly certified requisitions of the State Board of Insurance. The fee is included in the division of premiums and shall not be separately charged to the title insurance agent. The State Board of Insurance shall ~~[may elect to]~~ collect on a semiannual basis the fee ~~[tax]~~ assessed under this article only from insurers whose ~~[tax]~~ liability under this article for the previous ~~[tax]~~ year was \$2,000 or more. The State Board of Insurance may prescribe and adopt reasonable rules to implement such payments as it deems advisable, not inconsistent with this article.

SECTION 4.02. This article takes effect September 1, 1993.

ARTICLE 5

SECTION 5.01. Subchapter J, Chapter 403, Government Code, is amended by adding Section 403.2015 to read as follows:

Sec. 403.2015. INCLUSION OF PENALTY AND INTEREST. In this subchapter, "tax" and "fee" include an assessment, tax, or fee, and the penalty and interest computed by reference to the amount of the assessment, tax, or fee.

SECTION 5.02. Section 403.202(a), Government Code, is amended to read as follows:

(a) If a person who is required to pay to any department of the state government an occupation, excise, gross receipts, franchise, license, or

privilege tax or fee, including a local tax collected by the comptroller but not including [other than a tax or fee to which Subchapter B, Chapter 112, Tax Code, applies or] a tax or other amount imposed under the Texas Unemployment Compensation Act (Article 5221b-1 et seq., Vernon's Texas Civil Statutes), contends that the tax or fee is unlawful or that the department may not legally demand or collect the tax or fee, the person shall pay the amount claimed by the state, and if the person intends to bring suit under this subchapter, the person must submit with the payment a protest.

SECTION 5.03. Sections 403.203(a) and (b), Government Code, are amended to read as follows:

(a) A person may bring suit against the state to recover an occupation, excise, gross receipts, franchise, license, or privilege tax or fee covered by this subchapter and required to be paid to the state if the person has first paid the tax under protest as required by Section 403.202.

(b) A suit under this section must be brought before the 91st day after the day the protest payment was made, or the suit is barred, except that:

(1) [provided that] with respect to any tax or fee assessed annually but that is required to be paid in installments, the protest required by Section 403.202 may be filed with the final annual return and suit for the recovery for any such installment may be filed within 90 days after the final annual return is due; and

(2) for the tax imposed by Chapter 171, Tax Code, for a regular annual period, if an extension is granted to the taxpayer under Section 171.202(c), Tax Code, for filing the report:

(A) if the taxpayer files the report on or before the last date of the extension period, the protest required by Section 403.202 may be filed with the report to cover the entire amount of tax paid for the period, and suit for the recovery of the entire amount of tax paid for the period may be filed before the 91st day after the date the report is filed; and

(B) if the report is not filed on or before the last date of the extension period, a protest filed with the report applies only to the amount of tax, if any, paid when the report is filed.

SECTION 5.04. Sections 403.212(a) and (d), Government Code, are amended to read as follows:

(a) An action for a restraining order or injunction that prohibits the assessment or collection of a state tax, or a local tax collected by the comptroller; license, registration, or filing fee; or statutory penalty assessed for the failure to pay the state tax or fee or local tax collected by the comptroller may not be brought against a state official or a representative of an official in this state unless the applicant for the order or injunction has first:

(1) filed with the attorney general not later than the fifth day before the date the action is filed a statement of the grounds on which the order or injunction is sought; and

(2) either:

(A) paid to the state official who collects the tax or fee all taxes, fees, and penalties then due by the applicant to the state; or

(B) filed with the state official who collects the tax or fee a good and sufficient bond to guarantee the payment of the taxes, fees, and penalties in an amount equal to twice the amount of the taxes, fees, and penalties then due and that may reasonably be expected to become due during the period the order or injunction is in effect.

(d) A state official who receives a payment or bond under Subsection (a)(2) shall deliver the payment or bond to the treasurer. The treasurer shall deposit a payment made under Subsection (a)(2)(A) to the credit of each fund to which the tax, fee, or penalty is allocated by law ~~[into the suspense account of the treasurer]~~.

SECTION 5.05. The chapter heading for Chapter 112, Tax Code, and Subchapter D, Chapter 112, Tax Code, are amended to read as follows:

CHAPTER 112. TAXPAYERS' SUITS ~~[SUBCHAPTER D. SUIT]~~
FOR TAX REFUND

Sec. ~~112.001~~ ~~[112.151]~~. SUIT FOR REFUND. (a) A person may sue the comptroller to recover an amount of tax, penalty, or interest that has been the subject of a tax refund claim if the person has:

- (1) filed a tax refund claim under Section 111.104 of this code;
- (2) filed, as provided by Section 111.105 of this code, a motion for rehearing that has been denied by the comptroller; and
- (3) paid any additional tax found due in a jeopardy or deficiency determination that applies to the tax liability period covered in the tax refund claim.

(b) The suit must be brought against both the comptroller and the attorney general and must be filed in a district court.

(c) The suit must be filed before the expiration of 30 days after the issue date of the denial of the motion for rehearing or it is barred.

(d) The amount of the refund sought must be set out in the original petition. A copy of the motion for rehearing filed under Section 111.105 of this code must be attached to the original petition filed with the court and to the copies of the original petition served on the comptroller and the attorney general.

(e) A person may not intervene in the suit.

(f) A person may sue the treasurer to recover an amount of a tax, penalty, or interest that has been the subject of a refund claim filed with the treasurer as authorized by Section 111.1041. All the provisions of this ~~chapter~~ ~~[subchapter]~~ applicable to a suit brought against the comptroller under this section apply in the same manner to a suit brought against the treasurer under this section.

Sec. ~~112.002~~ ~~[112.152]~~. COUNTERCLAIM. The state may bring a counterclaim in a suit brought under this ~~chapter~~ ~~[subchapter]~~ if the counterclaim relates to taxes or fees imposed under the same statute and during the same period as the taxes or fees that are the subject of the suit and if the counterclaim is filed not later than the 30th day before the date set for trial on the merits of the suit. The state is not required to make an assessment of the taxes or fees subject to the counterclaim under any other statute, and the period of limitation applicable to an assessment of the taxes or fees does not apply to a counterclaim brought under this section.

Sec. ~~112.003~~ [~~112.152~~]. ISSUES IN SUIT. (a) The grounds of error contained in the motion for rehearing are the only issues that may be raised in a suit under this ~~chapter~~ [~~subchapter~~].

(b) The suit applies only to a tax liability period considered in the comptroller's decision.

Sec. ~~112.004~~ [~~112.153~~]. ATTORNEY GENERAL TO REPRESENT COMPTROLLER. The attorney general shall represent the comptroller in a suit under this ~~chapter~~ [~~subchapter~~].

Sec. ~~112.005~~ [~~112.154~~]. TRIAL DE NOVO. In a suit under this ~~chapter~~ [~~subchapter~~], the issues shall be tried de novo as are other civil cases.

Sec. ~~112.006~~ [~~112.155~~]. JUDGMENT. (a) The amount of a judgment for the plaintiff shall be credited against any tax, penalty, or interest imposed by this title or by Section 81.111, Natural Resources Code, and due from the plaintiff.

(b) The remainder of the amount of a judgment not credited to a tax, penalty, or interest due shall be refunded to the plaintiff.

(c) The plaintiff is entitled to interest on the amount of tax included in a judgment for the plaintiff equal to the amount of interest that would be due if the tax had been deposited in the suspense account of the treasurer. The interest accrues beginning from the date that the tax was paid until:

(1) the date that the amount is credited against the plaintiff's tax liability; or

(2) a date determined by the comptroller that is not sooner than 10 days before the actual date on which a refund warrant is issued.

Sec. ~~112.007~~ [~~112.156~~]. RES JUDICATA. The rule of res judicata applies in a suit under this ~~chapter~~ [~~subchapter~~] only if the issues and the tax liability periods in controversy are the same as were decided in a previous final judgment entered in a Texas court of record in a suit between the same parties.

SECTION 5.06. Section 111.107, Tax Code, is amended to read as follows:

Sec. 111.107. WHEN REFUND OR CREDIT IS PERMITTED. A person may request a refund or a credit or the comptroller may make a refund or issue a credit for the overpayment of a tax imposed by this title at any time before the expiration of the period during which the comptroller may assess a deficiency for the tax and not thereafter unless the refund or credit is requested:

(1) under Subchapter ~~L~~ [~~B of~~] Chapter 403, Government Code, [~~112 of this code~~] and the refund is made or the credit is issued under a court order;

(2) under the provision of Section 111.104(c)(3) applicable to a refund claim filed after a jeopardy or deficiency determination becomes final; or

(3) under Chapter 153 of this code.

SECTION 5.07. (a) Subchapters A-C, Chapter 112, Tax Code, are repealed.

(b) Section 403.212(e), Government Code, is repealed.

SECTION 5.08. (a) On the effective date of this article, the state treasurer shall transfer all protested or contested amounts received under former Subchapters A-C, Chapter 112, Tax Code, or under Section 403.212(d), Government Code, that are in a suspense account, including accrued interest on the amounts, to the credit of each appropriate fund to which the taxes, fees, or penalties being protested or contested are allocated by law. Subchapter J, Chapter 403, Government Code, applies to amounts transferred under this subsection.

(b) The changes in law made by this article do not affect the duty of the State Board of Insurance to keep detailed records under former Sections 112.058(b) and (c), Tax Code, and the former law is continued in effect for that purpose.

(c) This article takes effect September 1, 1993.

ARTICLE 6

SECTION 6.01. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

The amendment was read.

Senator Montford moved that the Senate do not concur in the House amendment, but that a conference committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The President asked if there were any motions to instruct the conference committee on S.B. 82 before appointment.

There were no motions offered.

The President announced the appointment of the following conferees on the part of the Senate on the bill: Senators Montford, Chair; Armbrister, Barrientos, Moncrief, and Shelley.

SENATE RULE 11.19 SUSPENDED (Posting Rule)

On motion of Senator Armbrister and by unanimous consent, Senate Rule 11.19 was suspended in order that the Committee on Intergovernmental Relations might consider S.B. 1445 today.

RECESS

On motion of Senator Harris of Dallas, the Senate at 11:36 a.m. recessed until 11:50 a.m. today for the Local and Uncontested Bills Calendar.

AFTER RECESS

The Senate met at 11:50 a.m. and was called to order by Senator Halcy.

LOCAL AND UNCONTESTED BILLS CALENDAR

The Presiding Officer announced that the time had arrived for consideration of the Local and Uncontested Bills Calendar.

Pursuant to Senate Rule 9.03(d), the following bills were laid before the Senate, read second time, amended where applicable, passed to engrossment/third reading, read third time and passed (vote on Constitutional Three-Day Rule and final passage indicated after the caption of each bill):

C.S.S.B. 264 (Whitmire) Relating to the administration of police officer retirement systems in certain municipalities. (28-0) (28-0)

C.S.S.B. 569 (Brown) Relating to the management and control of feral hogs. (28-0) (28-0)

S.B. 686 (Whitmire) Relating to use of an electronic funds transfer system by a county. (28-0) (28-0)

C.S.S.B. 706 (Brown on behalf of Haley) Relating to the powers and duties of the State Preservation Board. (28-0) (28-0)

S.B. 738 (Rosson) Relating to the safe operation of motorcycles on highways. (28-0) (28-0)

C.S.S.B. 820 (Turner) Relating to free transcripts of statement of facts for appeals in which an affidavit of inability to pay costs has been filed. (28-0) (28-0)

C.S.S.B. 835 (Luna) Relating to the posting of telephone numbers and notices on pay telephones; providing a penalty. (28-0) (28-0)

S.B. 867 (Montford) Relating to the location of certain justice of the peace courts. (28-0) (28-0)

S.B. 987 (Turner) Relating to the service area for a municipal drainage utility system. (28-0) (28-0)

C.S.S.B. 988 (Turner) Relating to extension beyond a municipality's boundaries of certain municipal regulations to protect water quality. (28-0) (28-0)

C.S.S.B. 992 (Ellis) Relating to registration of interstate or foreign motor carriers for-hire. (28-0) (28-0)

C.S.S.B. 1093 (Madla) Relating to authorization for a county to create a county utility system board to operate and manage certain utility systems. (28-0) (28-0)

S.B. 1137 (Nelson) Relating to the amendment of Chapter 145, Texas Health and Safety Code, Tanning Facilities, to amend fees; add emergency orders; add civil and injunctive penalties; add administrative penalties; and amend criminal penalties. (28-0) (28-0)

C.S.S.B. 1225 (Parker) Relating to setting state goals, standards, and fees for used oil and solid waste. (28-0) (28-0)

S.B. 1364 (Harris of Dallas on behalf of Shelley) Relating to municipal civil service in certain municipalities. (28-0) (28-0)

C.S.S.B. 1383 (Bivins) Relating to certain reports on the academic performance of students at institutions of higher education. (28-0) (28-0)

C.S.S.C.R. 46 (Montford) Requesting the lieutenant governor and the speaker of the house of representatives to create a joint interim study committee on court facilities and security. (vv) (vv)

H.B. 5 (Henderson) Relating to the regulation of air conditioning and refrigeration contractors. (28-0) (28-0)

H.B. 49 (Harris of Tarrant) Relating to payment of judgments not claimed by the prevailing party. (28-0) (28-0)

H.B. 200 (Zaffirini) Relating to election of the board of directors of the Reeves County Hospital District. (28-0) (28-0)

H.B. 298 (Bivins) Relating to the election of and appointments to fill vacancies on the board of directors of certain hospital districts. (28-0) (28-0)

H.B. 475 (Harris of Tarrant) Relating to the selection of a guardian by a minor. (28-0) (28-0)

C.S.H.B. 600 (Harris of Tarrant) Relating to fees and the monthly charge by a domestic relations office from each managing and possessory conservator for whom the office provides services. (28-0) (28-0)

H.B. 633 (Whitmire) Relating to the commission and duties of school district peace officers. (28-0) (28-0)

H.B. 634 (Whitmire) Relating to the commissioning as peace officers of armed security personnel employed by a school district. (28-0) (28-0)

H.B. 635 (Whitmire) Relating to campus security personnel commissioned as peace officers. (28-0) (28-0)

H.B. 791 (Whitmire) Relating to the execution of wills and codicils to wills. (28-0) (28-0)

H.B. 966 (Zaffirini) Relating to the suspension or removal of employees of the Webb County Juvenile Board. (28-0) (28-0)

H.B. 989 (Turner) Relating to the notice provided by a county of the optional county motor vehicle registration fee. (28-0) (28-0)

H.B. 1180 (Zaffirini) Relating to assignment and docketing of civil cases in the 49th District Court. (28-0) (28-0)

H.B. 1274 (Harris of Tarrant) Relating to the enforcement of certain agreements between the parties to a marriage. (28-0) (28-0)

H.B. 1388 (Sims) Relating to the definition of an unemployment insurance benefit year. (28-0) (28-0)

H.B. 1453 (Truan) Relating to ad valorem tax abatement in a reinvestment zone. (28-0) (28-0)

H.B. 1703 (Bivins) Relating to the contracting authority of the Midland County Hospital District. (28-0) (28-0)

H.C.R. 23 (Sims) Authorizing the burial of Ronald G. Jackson in the State Cemetery. (vv) (vv)

H.C.R. 101 (Harris of Dallas on behalf of Haley) Authorizing the lieutenant governor and speaker of the house of representatives to create by mutual agreement such joint committees as they consider necessary during the term of this legislature. (vv) (vv)

**BILLS AND RESOLUTION REMOVED FROM
LOCAL AND UNCONTESTED BILLS CALENDAR**

<u>Number</u>	<u>Senators Removing</u>
S.B. 1315	Harris of Tarrant, Haley
H.B. 1335	Harris of Tarrant, Haley
S.C.R. 72	Wentworth, Madla

**CONCLUSION OF SESSION FOR
LOCAL AND UNCONTESTED BILLS CALENDAR**

The Presiding Officer announced that the session for consideration of the Local and Uncontested Bills Calendar was concluded.

CONGRATULATORY RESOLUTION

S.R. 814 - By Barrientos, Armbrister: Commending the organizers of the "San Marcos, A Texas Natural!" program for the contributions they are making to the continued economic prosperity of this state.

ADJOURNMENT

On motion of Senator Harris of Dallas, the Senate at 12:00 noon adjourned until 11:00 a.m. Monday, May 3, 1993.

**FIFTY-EIGHTH DAY
(Monday, May 3, 1993)**

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Armbrister, Barrientos, Bivins, Brown, Carriker, Ellis, Haley, Harris of Tarrant, Harris of Dallas, Henderson, Leedom, Lucio, Luna, Madla, Moncrief, Montford, Nelson, Parker, Patterson, Ratliff, Rosson, Shapiro, Shelley, Sibley, Sims, Truan, Turner, Wentworth, West, Whitmire, Zaffirini.

A quorum was announced present.

The Reverend John R. Pitts, Rector, St. Matthew's Episcopal Church, Austin, offered the invocation as follows: